exercised by the government of the United States, and not to those of the individual states. *Eilenbecker* v. *District Court of Plymouth County,* 134 U. S. 31, 10 Sup. Ct. 424, 33 L. Ed. 801. The decision that such a trial without a jury does not violate the state or federal constitutional provisions against depriving a person of life, liberty or property without due process of law, is in accordance with the decisions in its own and other states. *Hood* v. *Von Glahn,* 88 Ga. 405, 14 S. E. 564; *Duren* v. *The City of Thomasville,* 125 Ga. 1, 53 S. E. 814; *People* v. *Dutcher,* 83 N. Y. 240; *McInerey* v. *Denver,* 17 Colo. 302, 29 Pac. 516; *Ogden* v. *Madison,* 111 Wis. 413, 87 N. W. 568, 55 L. R. A. 506.

MUNICIPAL CORPORATIONS—ORDINANCES—EXERCISE OF POLICE POWER.—The defendant in violation of a municipal ordinance which prohibited the erection of cotton gins within prescribed limits, on the ground that they were nuisances, was erecting a steam cotton gin. The plaintiff sought by injunction to restrain him. Power to regulate cotton gins was not expressly conferred on the town. *Held,* that as the erection of the gin was not a nuisance per se, the ordinance as an exercise of the general police power of the town was too broad and hence invalid. (MCCULLOCH, C.J., and BATTLE, J., dissenting.) *Swaim et al.* v. *Morris* (1910), — Ark. —, 125 S. W. 432.

The power to prevent and abate nuisances which is ordinarily given to municipal corporations is limited to cases of actual nuisance, and "does not give power to declare a thing to be a nuisance which is not one by nature, even though it might under certain circumstances become one." *Des Plaines* v. *Poyer,* 123 Ill. 348, 14 N. E. 677, 5 Am. St. Rep. 524; *Ex Parte O'Leary,* 65 Miss. 80, 7 Am. St. Rep. 640; *Tissot* v. *Great South. Tel. Co.,* 39 La. Ann. 996, 4 Am. St. Rep. 248; *State* v. *Mott,* 61 Md. 297, 48 Am. Rep. 105; *Cole* v. *Kegler,* 64 Iowa 59; *Wygant* v. *McLaughlan,* 39 Ore. 429, 64 Pac. 867, 54 L. R. A. 636; *Western etc. R. Co.* v. *Atlanta,* 113 Ga. 537, 38 S. E. 996, 54 L. R. A. 294; *Passaic* v. *Paterson Bill Posting Co.,* 72 N. J. L. 285, 62 Atl. 267, 111 Am. St. Rep. 676; *Chicago* v. *Gunning System,* 214 Ill. 628, 73 N. E. 1035, 70 L. R. A. 230. Nuisances which are such by nature or as they are frequently called, nuisances per se, are such as are not permissible "under any circumstances regardless of location or surroundings." *Windfall Mfg. Co.* v. *Patterson,* 148 Ind. 414, 62 Am. St. Rep. 532. An ordinance cannot make that a nuisance per se which is not a nuisance per se at common law or under a statute. *Grossman* v. *Oakland,* 30 Ore. 478, 41 Pac. 5, 60 Am. St. Rep. 832, 36 L. R. A. 593. Moreover, a legislature cannot authorize a municipal corporation to make that a nuisance which in fact is not a nuisance, "if by so doing it infringes upon constitutional rights." *Grand Rapids* v. *Powers,* 89 Mich. 94, 50 N. W. 661, 14 L. R. A. 498.

PRINCIPAL AND SURETY—CONSTRUCTION OF NEGOTIABLE INSTRUMENTS LAW —EXTENDING TIME OF PAYMENT OF NOTE—SURETY NOT DISCHARGED.—Plaintiff brings suit to recover the amount of a promissory note. From the face of the note the defendant's name appeared as one of the makers, but in fact he was a surety. Plaintiff, the original holder with knowledge of this fact at